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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/725,930

11/30/2000

Sameer Tannous

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2861

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7590

12/06/2006

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EXAMINER

BARQADLE, YASIN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/725,930

Applicant(s)

TANNOUS, SAMEER

Examiner

Yasin M. Barqadle

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 12, 13, 19, 30 and 40-42 is/are rejected.
- 7) ☒ Claim(s) 2-11, 14-18, 20-23, 25-27, 29-31-33 and 35-39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**Response to Amendment**

1. Applicant's arguments filed on August 07, 2005 have been considered but are moot in view of the new ground(s) of rejection.

- Claims 1-42 are presented for examination.

**Allowable Subject Matter**

2. Claims 2,14,18,20 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant is requested to rewrite objected claims as (wherein the protocol emulator has a prescribed assigned IP address and a kernel configured for detecting IP frames, the promiscuously detecting step including passing by the kernel the detected IP frames to the executable emulation application independent of any specified IP destination address, including any IP destination addresses different from the prescribed assigned IP address, and monitoring by the executable emulation application for the detected IP frames received by the network interface).

Claims 3-11,15-17,21-22, 24-27,29,31-33, and 35-39 depend to above objected claims.

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**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,12-13,19,30 and 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goddard (USPN. 20020055980) in view of Grover (US. Patent number 5933602). As per claims 1,12-14,19 and 30, Goddard teaches the invention of emulating IP devices in a protocol emulator (abstract and L7/3 dispatcher figs. 1-6, comprising:

Promiscuously detecting IP frames on a network interface (fig. 5 shows a promiscuous capturing all packets arriving at the data link layer ¶ 0055);

detected IP frame by an executable emulation application (¶ 0028-0031 ¶ 005-0057 and ¶ 0074); and

outputting each said response IP frames by a raw socket onto the network interface "Packets containing data requests (e.g., HTTP requests) are stored in the queue 212 when all of the back-end connections 214-224 are active. When an idle server is detected, a data request is dequeued, combined with corresponding TCP and IP headers, and sent to this server using a raw socket (raw socket is provided in many operating systems, e.g., UNIX, for users to read and write raw network protocol datagrams with a protocol field that is not processed by the kernel).

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Packets containing response data from a back-end server are combined with appropriate TCP and IP headers and passed to the corresponding client using raw sockets. (FIG. 6. ¶ 0055-0057). Furthermore, Goddard teaches "where all communications with clients 108-110 pass through the dispatcher 102, the dispatcher can independently monitor the performance metric of concern for the back-end server 104." (¶ 0039).

Although Goddard shows substantial features of the claimed invention, he does not explicitly show generating a response IP frame for each detected IP frame.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Goddard, as evidenced by Grover USPN. (5933602).

In analogous art, Grover whose invention is about a system for selecting command packets and corresponding response packet from communication stream, disclose generating a response IP frame for each detected IP frame "FIG. 11 illustrates how test tool 34 can process a collection of randomly ordered command and response packets and generate a chronologically ordered trace of command and response packets. At block 171 test tool 34 sets a packet pointer to the beginning of the buffer containing the out-of-order command and response packets ... each packet in the collection of randomly ordered command and response packets is examined until a response packet having the same identifier as that of the command packet is located [Col. 13, lines 21 to col. 14, line 9].

Giving the teaching of Grover, a person of ordinary skill in the art would have readily recognized the desirability

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and the advantage of modifying Goddard by employing the system Grover which can extract only command and corresponding response packets would greatly ease the development of software and hardware which utilizes a command and response protocol.

Regarding claims 40 and 42, Grover teaches wherein the promiscuously detecting, generating, and outputting each are performed in the protocol emulator (see fig. 1 and 2).

### **Conclusion**

4. The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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ABDULLAH SALAD  
PRIMARY EXAMINER